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July 18, 2007

Timothy D. Ford
Open Government Ombudsman
Attorney General's Office
1125 Washington St. SE
Olympia, WA 98504

Dear Mr. Ford:

The enclosed material is provided by the Code Reviser's Office to the Public Records Exemptions Accountability Committee. Please find enclosed lists of public disclosure exemptions contained in the Revised Code of Washington. This information is produced in response to the directive in Section 2(7)(a), chapter 198, Laws of 2007 (Substitute Senate Bill No. 5435), that "the code reviser shall provide the committee by August 1st of each year with a list of all public disclosure exemptions in the Revised Code of Washington." What follows is a summary of the lists enclosed with this letter. Items listed in Appendices 2a through 5b that do not contain public disclosure exemptions have been crossed out.

- Appendix 1 -- A copy of the comparative table from the Table of Disposition of Former RCW Sections, found in Volume 0 of the Revised Code of Washington, showing sections in chapter 42.17 RCW that were recodified in chapter 42.56 RCW, including specific exemptions from public disclosure that were contained in former RCW 42.17.310
- Appendix 2a -- A list compiled by searching the RCW for references to any section in chapter 42.56 RCW
- Appendix 2b -- A display of the context of each response to the query conducted in compiling the list in Appendix 2a
- Appendix 3a -- A list compiled by searching the RCW for the word "not" within 8 words of "inspection or copying" and within 8 words of "public inspection," without any reference to sections in chapter 42.56 RCW
- Appendix 3b -- A display of the context of each response to the query conducted in compiling the list in Appendix 3a
- Appendix 4a -- A list compiled by searching the RCW for the word "exempt" and its derivatives within 5 words of "disclosure" and its derivatives, without any reference to sections in chapter 42.56 RCW
- Appendix 4b -- A display of the context of each response to the query conducted in compiling the list in Appendix 4a



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- Appendix 5a -- A list compiled by searching the RCW for the phrase "not subject to" within 5 words of "disclosure," without any reference to sections in chapter 42.56 RCW
- Appendix 5b -- A display of the context of each response to the query conducted in compiling the list in Appendix 5a
- Appendix 6a -- A list compiled by searching the RCW for the words "privilege," "confidential," "private," or "privacy"
- Appendix 6b -- A display of the context of each response to the query conducted in compiling the list in Appendix 6a

The above lists may contain materials that would not be included in a narrow definition of "public disclosure exemption." Documents that are privileged, confidential, or private may or may not be exempt from the public disclosure laws under RCW 42.56.070(1), which creates a public disclosure exemption for any "other statute which exempts or prohibits disclosure of specific information or records." See *Hangartner v. City of Seattle*, 151 Wn.2d 439, 450-53, 90 P.3d 26 (2004) (holding that documents within the attorney-client privilege in RCW 5.60.060(2)(a) are exempt from public disclosure); *Brouillet v. Cowles Publ'g Co.*, 114 Wn.2d 788, 800, 791 P.2d 526 (1990) (right to closed hearing on teacher certificate revocations does not exempt records from public disclosure). However, such materials have been included to assist the committee in carrying out its statutory duties. Also, despite crafting each query with care to avoid repeat hits between searches, the same exemption may appear in more than one of the above lists. These cautions specifically apply to the list compiled in Appendix 6a.

Additionally, for a list of state and federal statutes compiled by members of the Attorney General's Office that provide for confidentiality, privilege, or other exemption to disclosure of public records, information, or communications see Kristal K. Wiitala, "*Other Statute Exemptions from Disclosure*," in PUBLIC RECORDS ACT DESKBOOK: WASHINGTON'S PUBLIC DISCLOSURE AND OPEN PUBLIC MEETINGS LAWS 12-1, 12-6 to 12-24 (Greg Overstreet, ed., Wash. State Bar Assoc. 2006). Finally, any questions regarding the materials provided or any suggestions for future search queries are welcome.

Sincerely,

Kyle Thiessen
Code Reviser

Bryan Page
Assistant Code Reviser

